

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FLAVIA BENITEZ,
Plaintiff,

v.

SODEXHO MARRIOTT SERVICES,
Defendant.

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) C.A. NO.: 04-11959-NG
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DEFENDANT’S MOTION FOR SUMMARY JUDGMENT¹

The defendant, Sodexho, Inc., (“Sodexho”), misnamed herein as Sodexho Marriott Services, respectfully moves this Court, pursuant to Fed. R. Civ. P. 56, for summary judgment on the sole count in the plaintiff, Flavia Benitez’s (“Benitez”), Complaint. In support of this Motion, Sodexho states there is no genuine issue of material fact as to the following:

1. The plaintiff’s claim under the Americans With Disabilities Act must fail because the plaintiff cannot establish that she is disabled under the Americans With Disabilities Act.

In further support of this Motion, Sodexho relies upon the attached Memorandum of Law.

¹ The defendant notes that it is filing this motion for summary judgment prior to the completion of the majority of the discovery in this matter and with approval of the Court. Because of a number of discovery issues, the defendant proposed to the Court that it would conduct an abbreviated deposition of the plaintiff and then file for summary judgment, with the proposal that if summary judgment wasn't granted that the defendant would be allowed to complete the remaining discovery, including the completion of the plaintiff's deposition. Therefore, in the event that this Motion for Summary Judgment is not granted, the defendant intends to complete the remaining discovery needed (including the completion of the plaintiff's deposition) and potentially file additional dispositive motions.

WHEREFORE, Sodexo respectfully requests this Court grant its Motion for Summary Judgment.

REQUEST FOR ORAL ARGUMENT

Pursuant to Rule 7.1(D) of the Local Rules of the United States District Court for the District of Massachusetts, Sodexo hereby requests a hearing on its Motion for Summary Judgment.

MOTION CERTIFICATION

I, Brian M. Haney, counsel for Defendant, Sodexo, hereby certify that I have made a reasonable and good faith effort to confer with the plaintiff to resolve or narrow the issues in dispute in this Motion, pursuant to Local Rule 9.1(A)(2).

Respectfully submitted,

SODEXHO, INC.,
by its attorneys,

/s/ Brian M. Haney

Harry L. Manion III, BBO #: 317440

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Dated: August 7, 2006

CERTIFICATE OF SERVICE

I, Brian M. Haney, attorney for Sodexo, Inc., hereby certify that a true and correct copy of the foregoing Defendant's Motion for Summary Judgment was served by first class mail this 7th day of August, 2006, upon the plaintiff as follows:

Flavia Benitez
PO Box 2437
Jamaica Plain, MA 02130

/s/ Brian M. Haney
Brian M. Haney